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HUMAN RIGHTS COMMITTEE

Sixtieth session

SUMMARY RECORD OF THE 1589th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 15 July 1997, at 10 a.m.

Chairman: Mrs. CHANET

later: Mrs. MEDINA QUIROGA

later: Mrs. CHANET

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4)

Initial report of Slovakia (CCPR/C/81/Add.9)

1. At the invitation of the Chairman, Mrs. Krasnohorská, Mr. Grexa, Mr. Ježovica, Mrs. Lamperová, Mr. Prochacka and Mrs. Tuhovčáková (Slovakia) took places at the Committee table.

2. Mrs. KRASNOHORSKA (Slovakia) said that her delegation welcomed the opportunity for constructive dialogue with the Committee. Acknowledging the assistance received in connection with the preparation of her country's initial report, her delegation saw its consideration not as an end in itself but as a stage in the ongoing process of extending and consolidating the protection and enjoyment of the rights and freedoms established by the Covenant.

3. With the adoption of the Declaration of Sovereignty of the Slovak Republic on 17 July 1992, the basic undertaking had been given to respect "the rights of all citizens, all nations, all national minorities and ethnic groups, as well as the democratic and humanistic heritage of Europe and the world". As one of the successor States to the Czech and Slovak Federal Republic, Slovakia had taken over earlier international obligations, and was keenly aware of its responsibilities for the safeguarding of pluralistic democracy and the protection of human rights, within the framework of the rule of law.

4. Reviewing the constitutional and other legal guarantees of rights and freedoms in Slovakia, she called particular attention to article 46 (1) of the 1992 Constitution, which established the "right to an independent and impartial court hearing and, in cases designated by law, to another body of the Slovak Republic", and cited different aspects of the broad competence of the Constitutional Court to hear complaints of judicial infringements of human rights, subject to certain conditions.

5. In relation to article 1 of the Covenant, she pointed out that the right to self-determination, as defined in the Declaration of Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, was central to the Preamble of the Slovak Constitution and was reflected in the provisions of its article 7. Slovakia saw in the right of nations to self-determination the fundamental underpinning of all individual human rights.

6. In relation to article 2 of the Covenant, she remarked that a proper understanding of the Covenant was a prerequisite for its integration into a country's legal system. To that end, the text of the Covenant, as well as a number of related analyses and commentaries, had been published and made accessible to the public at large in Slovakia, so that everybody might be informed of the obligations entered into by the State and made aware that remedies were available if rights and freedoms were violated.

7. Concerning article 3 of the Covenant, and the equal right of men and women to the enjoyment of all economic, social and cultural rights set out therein, she called attention to articles 12 (2), 35 (1) and 36 of the Slovak Constitution, and more especially to article 38 (1), which prescribed affirmative action in regard to the health at work and working conditions of women, minors and persons with impaired health. In 1996, as a party to the relevant Convention, Slovakia had submitted an initial report to the Committee on the Elimination of Discrimination Against Women.

8. The provisions of article 4 of the Covenant, concerning derogations in time of public emergency, were the subject of legislation that was under preparation and was expected to strengthen the guarantees provided in article 12 (2) of the Constitution and to ensure that any limitations on the enjoyment of basic rights and liberties must be sanctioned by law, matched to the degree of actual threat to social order and compatible with any obligations incumbent on Slovakia under international law.

9. Concerning the right to life (Covenant, art. 6) and more especially the issue of capital punishment, she recalled that the abolition of the death penalty in 1990 had been confirmed in article 15 (3) of the Constitution. Her delegation had been a sponsor of resolution 1997/12 adopted by the Commission on Human Rights at its fifty-third session, and although the issue remained controversial, the Government had made it clear that the reintroduction of the death penalty would be incompatible with Slovakia's international obligations and was not contemplated as part of the current reform of the Penal Code.

10. With regard to the prohibition of torture or other cruel, inhuman or degrading treatment or punishment (Covenant, art. 7), she recalled that the visit of the European Committee for the Prevention of Torture to Slovakia in 1995, its report and the recommendations it had addressed to the Government had been reported in the press and widely discussed. Beyond prohibition, a special effort was being made to establish an efficient system for the investigation of complaints by citizens and to draw the appropriate conclusions when there were findings of culpability.

11. The sexual exploitation of children as such was not the subject of specific legislation in Slovakia; applicable laws were those relating to sexual corruption and the corruption of minors. Since 1990, stronger legal measures had been enacted to criminalize the exploitation of prostitution of others, as well as the production, import and dissemination of, and provision of public access to, materials of a pornographic nature or constituting an affront to morality, including the representation of sexual acts performed with children. While what the law defined as sexual corruption of children was a relatively frequent occurrence in Slovakia (several hundreds of cases), recourse to such activity for commercial purposes, i.e. to produce child pornography, appeared to be quite rare. According to official figures, only four such cases had been brought before the courts since 1992, but such criminal behaviour might well be on the increase, and to take account of that unwelcome reality, investigations had been entrusted to the special police unit set up in February 1997 to deal with crimes committed by and against young people. A number of laws had been enacted to protect women from sexual violence and exploitation, and notably to combat the traffic in women.

12. In relation to the freedom to seek, receive and impart information and ideas of all kinds, as defined in article 19 of the Covenant, she stressed the importance of ensuring that the very expression of that freedom was not impeded by the stranglehold of over-powerful media. Article 20 of the Covenant, prohibiting propaganda for war and advocacy of national, racial or religious hatred - both of which were criminal offences in Slovakia - offered an example of justified limitation of the freedom of expression.

13. Concerning article 24 of the Covenant, she described some of the current legislation in Slovakia as it related to the protection of children's rights, singling out for particular attention the distinction established in the Family Act between the principles of *materna semper certa est* and *pater incertus*.

14. In connection with article 25 of the Covenant, she described the Slovak legislation relating to the political rights of citizens, notably the right to vote and to be elected.

15. Concluding her presentation, she said that the contribution of some 40 non-governmental organizations (NGOs) active in the field of human rights in Slovakia was irreplaceable in heightening people's awareness of their rights and their understanding of human rights issues in general. She singled out for particular attention the information, research and education activities carried out by the Slovak National Centre for Human Rights, an independent body set up in 1994 by agreement between the Government and the United Nations and financed by national and international public and private funds. She voiced the conviction of her Government that strict and scrupulous respect for the human rights instruments to which the country was a party was indispensable to the establishment of a modern and democratic society and the achievement of individual aspirations to happiness, independence and liberty.

16. The CHAIRMAN thanked the representative of Slovakia for her detailed presentation and invited replies to the questions in the list of issues (CCPR/C/60/Q/SLO/4).

17. Mr. JEZOVICA (Slovakia), replying to question 1, said article 12 of the Constitution laid down that fundamental rights were guaranteed to every person, regardless of sex, race, colour, language, faith, religion, political affiliation or conviction, national or social origin, nationality or ethnic origin, property, birth or any other status. His Government was aware that article 26 of the Covenant carried with it an obligation to create conditions under which the groups referred to in question 1, which for historical reasons were likely to suffer from discrimination, could enjoy their rights. Thus, article 260 of the Penal Code provided that anyone who supported or promoted a movement aimed at suppressing the rights and freedoms of citizens, or who incited racial or religious hatred, was liable to one to five years' imprisonment. The sentence was increased if the medium used was the press, radio or television.

18. In 1995, the Government had appointed a special representative to deal with the problems of groups in need of special assistance. The problem of the Roma, for example, was multifaceted and had a social and cultural dimension. The action taken was aimed at promoting employment, improving living

conditions, rehabilitating ex-prisoners, ex-alcoholics and ex-drug addicts, and improving the education of children. Many Roma children were poorly motivated to attend school, and special preparatory classes had been initiated to familiarize them with the language of instruction. At the secondary level, traditional handicrafts had been incorporated into the curriculum, and prevention programmes had been introduced for children addicted to alcohol or drugs. Counselling and training centres had been set up at the district level in cooperation with interested international organizations.

19. Concerning disabled persons, special benefits had been provided by the Minister of Health, including allowances for special equipment, for adaptations to living quarters and for the purchase of a car. The disabled were also given a special travel allowance and heating allowance, and were entitled to free spa treatment after the age of 70. Employers were encouraged to take on disabled people through the award of tax benefits. The Government met regularly with NGOs to discuss what measures could be adopted to solve current problems.

20. Turning to question 2, he emphasized that in Slovakia there was no tendency towards harassment of Jews, although a small number of isolated incidents had occurred. The skinhead population numbered about 1,700 out of a total population of 5.3 million, and criminal proceedings had been initiated against 10 such persons. Conflicts had certainly been reported between skinheads and Roma, and the Minister of the Interior had held meetings with the latter's representatives to agree on a programme of enhanced protection. Though complaints were sometimes made that protection was inadequate, it must be said that the police were not usually called in until the conflict had escalated, and it was thus difficult to decide which side had started the violence. However, the Government unequivocally condemned such incidents and was doing all it could to prevent them.

21. Mrs. TUHOVCAKOVA (Slovakia), replying to question 3 on the list of issues, said that the rights of women were guaranteed not only under article 12 of the Constitution but also under article 35, relating to the right to work, article 36, relating to the right to just and favourable conditions of work, and article 38, relating to the right to safe and healthy working conditions.

22. The civil and political rights of women were protected not only under the Constitution but also by legislation, and acts of discrimination against them were unlawful. Despite existing obstacles, which were more socio-economic than legal in character, it was noteworthy that the position of women in society had improved in recent years. A number of NGOs had been set up and played an active part in ensuring that women enjoyed effective equality with men. The Government attached great importance to women's rights, and since 1993 had promulgated a number of laws in that area. During the International Year of the Family, an international centre for the study of family questions had been set up in Bratislava, and in March 1996 an advisory committee on women's affairs, chaired by the Minister for Social Affairs, had been established. All draft legislation relating to women was referred to that committee for advice.

23. With regard to the participation of women in political life, she pointed out that the Deputy Minister for Legislative Affairs, the Minister for Foreign Affairs, the Minister for Social Affairs and the Minister of Education were all women, and that there were also a number of women Members of Parliament.

24. Slovakia had taken all necessary steps to eliminate discrimination against women in the field of education: women were guaranteed equal access with men to educational and training establishments at all levels. In employment, women benefited from special provisions regarding night work and from special sickness, pregnancy and maternity allowances. Crèches were provided for children of working mothers between the ages of one and six. It could thus be seen that women's rights were fully respected in Slovakia.

25. Mrs. LAMPEROVA (Slovakia), replying to question 4, said the problem of violence against women and children was regarded by her Government as deserving special attention. In March 1996 it had adopted resolution No. 216, which introduced measures against child pornography and the sexual abuse of women and children. Those measures involved cooperation with Interpol at the international level, as well as cooperation between the police, regional authorities, and the educational, social and health sectors. Under the Penal Code, any act of violence against the life, health, freedom and integrity of the human person was a criminal offence; the Code also provided for compensation for victims of crimes of violence, sexual abuse, trafficking, procuring and illegitimate abortion. If the victims of such crimes were minors, the perpetrators were liable to more severe penalties. In recent years there had been a slight increase in the number of convictions for violence and sexual abuse against women, and four persons a year had been convicted for trafficking over the past three years. It must be admitted, however, that many such crimes went undetected because the victims were unwilling to come forward.

26. A large-scale codification of the Penal Code and of the Code of Criminal Procedure was being planned, and the Minister of Justice had appointed a commission of experts for the purpose. They were to work in consultation with their counterparts in other countries. The commission would be dealing with new problems, unknown under the socialist regime: imported crime had been an unwanted consequence of Slovakia's transition to democracy. A wide-ranging draft law on crime prevention was currently in course of preparation and would shortly come before Parliament.

27. Mr. PROCHACKA, replying to question 5, said it was not possible to provide exact data on the proportion of persons from minorities in public service and in economic life because no statistics were available on the nationality of those so employed. He would therefore confine himself to providing information on the number of persons belonging to minorities, particularly the Hungarian and Roma minorities, in political and public affairs.

28. The Hungarian minority had four political parties, three of which were represented in Parliament as the Hungarian Coalition. That coalition consisted of 17 deputies, representing 11.3 per cent of the total number of deputies, a considerable proportion in view of the fact that Hungarians accounted for only 10.7 per cent of the population as a whole. Minorities

were also represented in the Council for National Minorities, an advisory body composed of experts from ministries and scientific institutions and representatives of the minorities themselves. A similar advisory body was the Commission for National Minority Cultures.

29. The right of minorities to participate in public life was exercised not only through Parliament and the various advisory bodies, but also through self-governing bodies in ethnically mixed municipalities. Here too, precise data were lacking, but in general municipal elections had strongly reinforced the self-governing status of the Hungarian minority at the town and village levels: Hungarians currently had control of some 450 municipalities. In addition, there existed various civil associations and foundations through which Hungarians participated in public affairs, such as the Association of Towns and Villages of Southern Slovakia. There was also the Civitas Foundation, set up in 1994 to assist in the professional upgrading of mayors and deputy mayors of ethnically mixed communities and in the resolution of specific local problems.

30. The situation of the Roma minority was similar to that in all other Central and East European countries. In the last population census (March 1991) more than 80,000 had claimed to be Roma; the estimated size of the Roma population ranged between 250,000 and 500,000, but the majority declared themselves to be of either Slovak or Hungarian nationality according to which was the prevailing nationality in the area concerned. The fact that their national minority status was recognized as being equal to that of other minorities guaranteed their cultural development and gave them the opportunity to strengthen their positive self-image. Although the basic policy towards the Roma had been formulated, their living conditions and overall economic and social situation remained difficult, with high levels of unemployment and criminality and low levels of income and education.

31. Their participation in political and public life had been hindered by the fact that they had 15 political parties and 37 civil associations, all of which sought to promote their well-being but were incapable of forming a united political front. The Roma minority had no representation in the Slovak Parliament. The Roma Civic Initiative recognized the Roma nationality as a separate ethnic group and sought to achieve equality with other minorities living in Slovakia. The Roma Integration Party was opposed to that approach, preferring to seek the more rapid assimilation of the Roma minority. The minority had its own representatives in the Council of the Slovak Government for National Minorities and in the Commission for National Minority Culture.

32. The right of persons belonging to minorities was connected with such spheres as education, culture, language, employment and health care. No official statistics for employment, health care and administrative and other services, broken down according to ethnic, religious and linguistic characteristics, were available. In general, though, all such rights were fully implemented and exercised without distinction, and if there were any difficulties or problems in those areas, such as unemployment, they were certainly not connected with the minority status of the groups concerned.

33. As for education, culture and language, three forms of education had been evolved using minority languages in schools, depending on the specific characteristics of the individual national minorities. There were schools - for the Hungarian minority - that used the minority language as the only language of instruction. There were also schools - for the Ukrainian and German minorities - offering bilingual instruction in both the minority and the State language. Thirdly, there were schools in which the mother tongue was taught as one of the subjects, while the remaining subjects were taught in the State language; those schools were for the Ukrainian, German, Roma and Ruthenian minorities.

34. Education for the Hungarian minority in kindergartens, primary schools and secondary schools was without exception in Hungarian for all subjects, including the teaching of the Slovak language; that was also the system for private and church schools sponsored by the Government. Teachers at schools offering instruction in the Hungarian language were trained at the University of Education in Nitra.

35. For the Roma minority, so-called "zero preparatory classes" had been introduced on an experimental basis in 13 schools with the aim of teaching the Slovak language as the language of instruction by means of the Roma language. Because only a small proportion of Roma children attended pre-school establishments, their language skills were inadequate to cope with the first-grade teaching programme. So far the experiment of "zero preparatory classes" for linguistically disadvantaged and socially neglected children had yielded positive results and it was hoped that they might provide a general solution to the problem of high failure rates by Roma pupils throughout Slovakia. Special instruction was available for teachers in schools with a high concentration of Roma pupils and there were plans to train kindergarten teachers for work in the Roma settlements themselves.

36. A new stage in the history of education of the German national minority had been reached with the opening of classes using German as the language of instruction. Schools offered bilingual teaching of individual subjects, and the German language was taught by teachers from Germany; music, art and physical education were all taught in German.

37. On the basis of requests made by parents who were citizens of Slovakia and of Ruthenian nationality, it was planned that the Ruthenian language and its literature would be taught in some schools. A survey of parents conducted in 47 municipalities and 57 schools had shown that some 600 pupils would be interested in learning those subjects.

38. As to the cultural life of national minorities, there were currently 11 minority culture associations, 4 professional minority theatres (2 for the Hungarian minority, 1 for the Ukrainian and Ruthenian minorities and 1 for the Roma minority), 2 professional song and dance ensembles, minority publishing houses and a minority periodical and non-periodical press. National minority cultural activities were financed at three different levels: from the budgets of municipalities and self-governing units; from the well-developed network of cultural institutions founded by the Ministry of Culture; and by the cultural unions of individual national minorities and minority publishing houses.

39. Mrs. Medina Quiroga took the Chair.

40. Mr. PROCHACKA (Slovakia) said that the right to use a minority language in official communications was guaranteed by article 34 of the Constitution and regulated by the Official Language Act. With the adoption of the State Language Act on 15 November 1995, the Official Language Act had been declared null and void, so the right to use a minority language in official communications was now constitutionally guaranteed by article 34 of the Constitution and by legislation for the protection of national minorities and basic treaties with neighbouring States. The State Language Act had been adopted in accordance with article 6 (1) of the Constitution; under paragraph 2 of that article it was envisaged that a law on the use of languages other than the State language in official communications would be adopted. The State Language Act did not touch on domestic legal provisions regulating the linguistic rights of members of national minorities: the right to receive education in a minority language, to disseminate and receive information in the mother tongue, to use the mother tongue before a court, to have one's name and surname in the mother tongue recognized and to display local names in minority languages were all guaranteed and governed by 11 enactments, including the Slovak Constitution, in accordance with international commitments.

41. Mrs. Chanet resumed the Chair.

42. Mr. GREXA (Slovakia) replying to questions 6, 7 and 8, said that the legal and institutional structures ensuring that the police and security forces respected the rule of law and were independent from political pressure were essentially the same in the two cases. He would take the police as an example. Several mechanisms existed to counter any abuse of power and violation of the law by the police. The operations of the police force were governed by Act No. 171/1993 relating to the Police Corps, which set out in 84 articles what the police could and could not do and under what conditions. The scope for abuse was very limited. The law stipulated that the police must respect the Constitution, the organization laws and other legislation in force. Article 158 of the Penal Code, for example, provided that a police officer who acted unlawfully by exceeding his powers could be imprisoned for between 6 months and 3 years or, if there were aggravating circumstances, up to 10 years. Special mechanisms existed within the police and the Ministry of the Interior to monitor police behaviour. Control was exercised by the Prosecutor-General's Office, which was an autonomous body completely independent of the Ministry of the Interior, and there was the normal recourse to the courts. The Constitutional Court could be approached directly by any person who believed that his rights had been violated. Article 1 (2) of the Police Corps Act stipulated that the operation of the police was controlled by the National Council of the Slovak Republic (Parliament) and by the Government with the same measures of control at their disposal as in other countries.

43. Legislative provisions existed to ensure the impartiality of the police and their immunity from political influence. Act No. 424/1991 relating to Political Parties (art. 5) stipulated that activity by political parties and movements within the police and security forces was not permitted. Indirect influence over the police did exist to some extent, but legislative measures

were taken in the most vulnerable sectors to eliminate that influence: police investigators were independent and operated solely under the Code of Criminal Procedure, the Prosecutor-General and the courts.

44. Article 49 of the Police Corps Act stipulated that individuals in detention might make complaints against the police; the complaints must be submitted in writing to the Commander of the Police Corps, who then examined them. Complaints from people other than those in detention were considered initially by the special departments of the Ministry of the Interior, and if the complaint was of an administrative nature, the Administrative Code was applicable. In 1994 the Control Service of the Ministry of the Interior had examined 2,640 complaints against the police, 665 of which had been found to be legitimate (25 per cent); in 1995 2,690 complaints had been considered and 411 found to be legitimate (15 per cent); and in 1996 3,540 had been examined and 733 found to be legitimate (20 per cent).

45. The use of weapons by the police was also governed by the Police Corps Act, article 61 of which stated that police officers were authorized to use weapons only in situations explicitly enumerated in the article. There were nine such situations, including self-defence and in extremity during the arrest of a dangerous criminal who refused to surrender, preventing a dangerous criminal fleeing if he could not be otherwise stopped, immobilizing a vehicle if the driver was threatening the life or health of others and refused to stop despite repeated requests to do so, and killing an animal that was threatening human life or health. The article made no distinction between the use of firearms and the use of knives, but before using a weapon the police officer was required to issue a warning that he would do so if the person concerned did not stop his criminal activity. He was obliged to fire into the air first unless he was under direct attack or the life or health of others was being threatened. He had to use all necessary prudence and care in protecting the life of the person being targeted, and was obliged to give medical assistance after a weapon had been used. He was also obliged to inform his superiors that he had used a weapon. Violation of those restrictions was rare, and between 1994 and 1996 there had been only one case of improper use of a weapon by the police; a penalty had been imposed on the officer concerned after a disciplinary procedure.

46. As to the rights of accused persons and detainees, article 36 of the Code of Criminal Procedure stipulated that an accused person must be assisted by a legal counsel if he was in custody, serving a prison sentence or under observation in a medical establishment, mentally or physically incapacitated or a minor. An accused must be assisted by legal counsel if an investigating magistrate considered it necessary, and especially if there was doubt about his ability to defend himself due to physical or mental disability. Assistance by legal counsel must also be ensured at the pre-trial stage. Such assistance was obligatory in cases of extradition and in cases entailing the imposition of medical treatment, other than anti-alcoholism treatment. The right to be assisted by a defence counsel was not linked directly to a specific type of crime; it depended on the situation of the accused or the seriousness of the crime. In cases where the law required obligatory defence, the accused could choose his own defence lawyer or the court would allocate one. Article 8 of the Execution of Detention Act stipulated that a detained person had the right to communicate with a lawyer in writing without

restriction and to meet that lawyer in certain conditions prescribed by the Penal Code; he also had the right to ask his lawyer for legal aid, even in matters not linked to the case in which he stood accused.

47. Article 15 of the same Act stipulated that an accused person had the right to a medical examination on admission to and release from prison. Article 70 of the Code of Criminal Procedure stipulated that the fact of imprisonment must be communicated promptly to relatives and to the detained person's supervisor at his place of work. The rights to a defence counsel and to medical assistance and the right of relatives to be informed of any detention were respected in Slovakia, and posed no real problems.

48. Mrs. LAMPEROVA (Slovakia), replying to question 9, said that the United Nations Standard Minimum Rules for the Treatment of Prisoners had been incorporated in the Execution of Detention Act. Living conditions in penal establishments and the procedures followed by their staff were part and parcel of the general treatment of detainees, which had the purpose of giving them the opportunity to enhance the positive aspects of their personalities, develop their capacity to resolve their problems and reintegrate themselves into civil life after leaving prison. The law stipulated that each person held in detention should occupy a minimum area of 3.5 square metres; 84 per cent of prison capacity in Slovakia was currently occupied. Vocational training provided for prison staff included the safeguarding of human rights, social and interpersonal communication and receptivity.

49. Monitoring was carried out by an independent territorial court, the territorial Procurator, the Slovak Parliament, members of the independent Parliamentary Commission on Prisons, the Director-General of Prison Administration and the Minister of Justice. The law provided that the facts relating to all detainees' complaints must be recorded and studied and a reply sent to the complainant or his representative within a specific time-limit. Complaints were reviewed twice a year by the prison's board of directors, the General Inspectorate of Prisons and the board of the Director-General of Prison Administration, with a view to taking suitable steps in specific circumstances.

50. The requisite legislative tasks had not yet been completed, because the country's Penal Code, Code of Criminal Procedure and Civil Code were currently being thoroughly overhauled; efforts were also being made to incorporate various recommendations made by visiting members of the European Committee for the Prevention of Torture. In that regard, a draft penal code had been presented to the Legislative Council of the Republic at the end of May.

51. Mr. JEZOVICA (Slovakia), referring to question 10 on the list of issues, said that freedom of expression was dealt with by article 26 of the Constitution, mentioned in Slovakia's initial report. Three major national laws were relevant: Act No. 160/97 on the Council of the Slovak Republic for Radio and Television Broadcasting; Act No. 254/91 on Slovak television; and Act No. 255/91 on Slovak radio. The Council for Radio and Television Broadcasting had nine members, who were required by law to be at least 21 years of age and resident in Slovakia, have legal capacity and have no criminal convictions. The law did not allow them to be political party activists or employees of public information companies, or to hold any

conflicting commercial interests. The Council supervised the issue of licences and observance of licensing conditions. Its chief role was to uphold the public interest while ensuring respect for broadcasting freedom. In accordance with the law, it reported to the Government on a regular basis, and also to Parliament whenever the latter might require it to do so. The other two bodies each consisted of nine members, of whom three were appointed by Parliament, three by the Government and three by representatives of NGOs, civic associations, churches and ecclesiastical communities. Each body was obliged to submit an annual report to Parliament. Slovakia had transformed the media from a State monopoly; by the end of 1996, it had granted 24 licences for radio broadcasting, 6 for regional and local television broadcasting, and one for satellite television broadcasting. In addition, 44 licences had been granted for cable television broadcasting and a further 76 for cable television broadcasting of mainly foreign programmes. With regard to the press, some 19 daily newspapers were published in Slovakia, as well as 516 periodicals and some 365 local and regional publications covering a broad range of interests and views.

52. With regard to the second sentence of question 10, no new laws prohibiting the expression of opinions deemed subversive to the Republic or damaging to State interests had been enacted. One bill which might have been so deemed, tabled in March 1996, had been rejected by the National Council and therefore had not become law; the views of several international bodies, sought by the Government during the relevant discussions, had been influential in that regard.

53. With reference to question 11, citizens had the constitutional right to participate in public affairs, directly or through chosen representatives. The basic entity of self-government was the municipality; since the Constitution also provided for higher bodies of self-government, however, discussions were in progress between the Government and the municipalities about the establishment of such higher territorial bodies, with a view to the adoption of appropriate measures. The right to take part in the conduct of public affairs was mainly covered by two laws, one on elections to the National Council and one on local elections. They provided, inter alia, that any resident citizen over 18 years of age could participate in elections; they also dealt with such matters as safeguards for independent elections and the composition of election commissions, to which each political party had the right to nominate a member. Each election was supervised by such a commission, which submitted a report to Parliament. Referendums were covered in the same way, the relevant commission being composed of representatives of parties represented in the National Council and each party nominating one representative. The only matters that could not be subject to a referendum were human rights, taxes and the State budget.

54. No legal provisions governed the circumstances in which a Member of Parliament might be expelled. In accordance with the Constitution, a Member of Parliament could lose his or her mandate by failing to accept the oath of office or expressing reservations to it (art. 75), by relinquishment in writing (art. 81 (1)), by termination due to criminal conviction (art. 81 (2)) or through death.

55. With regard to question 12, no provisions of the Constitution or other legislation governed conditions of civil service recruitment. The Labour Code, however, set forth general conditions and, with regard to employment in State bodies, required the adoption of detailed employment and recruitment regulations. In addition, a bill relating to the civil service was currently under preparation. Job categories were not codified. Applicants normally submitted a curriculum vitae and completed a questionnaire; recruits were taken on direct, after selection and testing, on the basis of a signed contract which set forth duties and conditions. Job vacancies were advertised in the media and the nation's employment offices. Matters such as working conditions and equal opportunities for promotion conformed to the provisions of the International Covenant on Economic, Social and Cultural Rights.

56. The question of impediments in respect of people associated with the previous regime had a legal as well as political aspect. A law adopted by the Czech and Slovak Federal Republic which placed impediments on persons such as former secret-service agents had been widely criticized as a violation of the rights to due process of law and to the protection of personal dignity and honour. That law had not been applied in Slovakia, and in any case would have ceased to have effect by 31 December 1996.

57. The CHAIRMAN thanked the members of the Slovak delegation for their replies, and invited members of the Committee to address to them any further comments and questions they might have.

58. Mr. KLEIN expressed thanks to the Slovak delegation. Slovakia had, in any case, succeeded to the Covenant's provisions, but its subsequent actions were a welcome sign of respect for its international obligations. However, no human rights instrument and no international monitoring could suffice to uphold respect for human rights if institutional safeguards were inadequate; and it had always proved wrong to deem a State's organization and structure conceptually separate from human rights safeguards.

59. His first question was whether there were any signs, in the Government or the legislature, of moves to alter the competence of the Constitutional Court with regard to its supervisory powers relating to acts that might violate human rights. Secondly, he would welcome information about reported government interference during the latest referendum on Slovakia's accession to NATO. Thirdly, he wished to have details on the current situation regarding the Democratic Union, the election of whose representatives had been challenged by the majority party; since the Constitutional Court had declined to hear a case brought by the Government challenging the Democratic Union's legality, he wondered whether moves were being made to maintain political pressure on that party.

The meeting rose at noon

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Sixtieth session

SUMMARY RECORD OF THE 1590th MEETING

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on Tuesday, 15 July 1997, at 3 p.m.

Chairman: Mrs. CHANET

later: Mr. BHAGWATI

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Initial report of Slovakia (continued)

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.97-17315 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of Slovakia (continued) (CCPR/C/81/Add.9; CCPR/C/60/Q/SLO/4)

1. At the invitation of the Chairman, the members of the delegation of Slovakia took places at the Committee table.

2. The CHAIRMAN invited members of the Committee to ask additional questions concerning the replies given by the Slovak delegation to the first part of the list of issues (CCPR/C/60/Q/SLO/4, paras. 1-12).

3. Mrs. EVATT thanked the Slovak delegation for the information it had already given in addition to the information contained in the initial report. She would nevertheless welcome clarification of various points which, in her opinion, had not been answered. Thus, referring to paragraph 1 of the list, which related to non-discrimination, she asked whether a person who claimed to be a victim of discrimination by a public body could take legal action in order to obtain redress and, if so, what kind of redress that person could expect to receive, such as reinstatement in his job or compensation. Article 26 of the Covenant imposed an obligation on States parties to prohibit any form of discrimination whatsoever, and she would like to know how Slovakia complied with that obligation. Were there remedies which private individuals could exercise in the event of discrimination, notably in the areas of employment and housing? And were there any informal organizations which could settle disputes, or were private individuals obliged to go to court?

4. In connection with question 2, which concerned racist and anti-semitic activities, she noted that the Slovak delegation had candidly acknowledged that members of the Roma minority had been victims of acts of violence, that the police had not always taken the necessary measures to protect that minority and that the persons responsible for the violence had not always been prosecuted. She asked what positive measures were being taken to remedy that state of affairs, and whether the Slovak authorities were considering taking action to combat inter-ethnic racism and to ensure that education programmes were initiated in order to change public attitudes in that area.

5. In connection with question 3 (non-discrimination against women), she asked to what extent a woman had the necessary means to lodge a complaint in the event of discrimination by a State body or an employer. She understood that in Slovakia there was great inequality between men's and women's wages; she would like to know whether women suffering from that type of discrimination could appeal to an authority and, if so, which one. In connection with question 4 (violence against women), she asked whether there was a programme for monitoring the effects of any measures the authorities might have taken to prevent and punish such violence. On that point the Committee had been informed of the enactment in Slovakia of legislation concerning illegal abortion; she would like to know whether the existence of that legislation had had any effect on the maternal mortality rate.

6. In connection with question 6, she would welcome further information on measures which had been taken to ensure that the Slovak investigation departments were entirely free of political pressure and, in relation to question 8, she asked why detainees did not have the right to communicate simultaneously with their relatives and with a lawyer and did not have the right to be examined by a doctor immediately. Lastly, on questions 11 and 12, she asked whether it was true that a Member of Parliament had been punished for having changed his political allegiance and how the freedom guaranteed by the Constitution in that area was respected.

7. Mr. YALDEN said he was particularly interested in the questions concerning the situation of women and minorities, questions on which the Slovak delegation had not given sufficient details concerning the actual situation. In that respect, he associated himself with the questions asked by Mrs. Evatt about equal pay for men and women in the civil service, and would also like to know how many women civil servants there were, what positions they held, and, if any shortcomings existed in that area, what measures were being taken by the authorities to remedy inequalities.

8. In connection with question 5 concerning the rights of persons belonging to minorities, he regretted that the Slovak delegation had been unable to provide precise statistics on the proportion of members of ethnic minorities employed in the civil service. He would like to know whether that proportion was sufficient and, if not, what measures the Slovak authorities intended to take to ensure that all minorities were equitably represented in the civil service. In addition, he noted that detailed information was given in paragraph 98 of the report on schools in which the language of instruction was Hungarian, but he would like the Slovak delegation to further state the percentage of children of Hungarian origin who were enrolled in school, as a proportion of the total school-age population. He also wondered why the Language Act which had come into force in January 1996 stipulated that school reports should be in Slovak only. He noted that the Slovak report made no mention of the possibility, for children belonging to the Roma minority, to be educated in their own language. In that connection, it seemed to him that Act No. 428/1990 relating to the official language of the Slovak Republic, mentioned in paragraph 96 of the report, contained extremely restrictive provisions as compared with the legislation enacted in other countries in a similar situation. He would welcome an explanation by the Slovak delegation of the justification for such an Act.

9. Lastly, concerning question 10 relating to freedom of expression, he asked whether in that area too the use of their own language by the minorities could be restricted in the media, and in particular on radio and television.

10. Mr. BHAGWATI thanked the Slovak Government and delegation for the efforts they had made to describe the human rights situation in Slovakia and thereby conduct a fruitful dialogue with the Committee. He welcomed the fact that one of the first measures taken by Slovakia as an independent State had been to ratify the Covenant and the Optional Protocol. However, for that type of measure to be truly effective, it was essential to establish an appropriate institutional mechanism and, in that respect, he would like to know whether Slovakia intended to set up a national human rights commission to which citizens could have access when they had complaints to make. Similarly, he

asked whether programmes had been initiated in Slovakia in order to provide training and education in the field of human rights in civil society, notably for Members of Parliament, magistrates, civil servants and, generally speaking, all persons exercising some form of authority. He also asked about the nature of the relationships between the Government and NGOs and whether the latter could take action without necessarily being registered with the governmental authorities.

11. Referring to paragraph 26 of the report, he asked in what cases assistance by a defence counsel was not mandatory. In addition, there were numerous reports of violence by skinheads and the police against the Roma minority. He asked what measures had been taken by the Government to prevent that type of violence, whether those responsible had been prosecuted and, if so, how many had been convicted. Did schools and universities have teaching programmes designed to bring about a change of attitude among young people towards the Roma and other minority groups?

12. Lastly, on the question of freedom of expression in Slovakia, he had received many reports of restrictions on the freedom of journalists, some of whom had been prosecuted for criticizing the Government or had been forced to engage in self-censorship. He asked the Slovak delegation what the actual situation was and whether the Government intended to take measures to remedy any violations of the right of freedom of expression.

13. Mrs. MEDINA QUIROGA said that she, too, would welcome further information on several points. Firstly, concerning question 3, which related to non-discrimination against women, she noted that the existing legislation was fairly comprehensive, but wondered whether positive measures were taken in practice, notably to ensure that women enjoyed equal access to education. She also asked what type of education was available to women and whether the training opportunities they were given enabled them to make genuine choices and to escape from traditionally subordinate jobs. In connection with question 4, which related to violence against women, she would like to know the reasons why women hesitated to lodge complaints, as the Slovak delegation had stated. Were the reasons of a cultural nature or did they relate to the existing machinery? Women often encountered great difficulty in having access to the police or taking legal action. Was the Government taking positive measures in that area? In addition, what were the provisions that made up the Prevention of Crime Bill, which had been mentioned in the context of violence against women?

14. In connection with question 8, she was surprised that the assistance of a defence counsel was not mandatory in all cases. That was contrary to the provisions of article 14 of the Covenant, which established every defendant's right to defence. She asked whether the provisions applicable in defamation trials varied according to whether the plaintiff was a senior official, a civil servant or a private individual. She also inquired whether it was true that the police had discretionary powers to hold asylum-seekers in custody and whether the latter had access to the courts. Lastly, she wondered whether the fact that university courses, appointments, promotions, etc. were within the aegis of the Ministry of Education did not impede academic freedom.

15. Mr. BUERGENTHAL said that the Slovak report, which mainly contained quotations from the Constitution, gave the impression that that country had achieved perfection in the area of human rights. The explanations furnished by the Slovak delegation had admittedly placed the situation in perspective, but the members of the Committee would have welcomed more information about the problems arising in Slovakia, because it was in that way that the dialogue between a State party and the Committee became meaningful. The first question he would like to put to the delegation was how a person could lodge a complaint against ill-treatment during police custody or imprisonment. Did an independent commission or judges regularly inspect prisons? Or did prisons come under the exclusive competence of the Ministry of Justice, the police or the prison administration?

16. Secondly, on the question of the Roma, he would like to know whether any of them had become stateless following the separation of the Czech Republic and Slovakia and whether there was any discrimination in relation to the acquisition of Slovak nationality by Roma. Were there many Roma who did not have Slovak nationality in Slovakia? If there were, where did they come from and what was their status? In the areas where there were many Roma, was there an official local organization for liaison between the police and the Roma community? He was concerned about that point because of reports of abuses by the police.

17. Lastly, he would like to know what educational measures had been taken by the Slovak Government to promote inter-ethnic tolerance, in the context of the media under State control and school curricula. What was being done to ensure that textbooks did not convey anti-Semitic or anti-Roma stereotypes?

18. Mr. KRETZMER associated himself with Mr. Klein's comments on the important role played by the democratic institutions for the protection of human rights and, like Mrs. Evatt and other Committee members, noted that the report dealt mainly with legislation and insufficiently with what was being done in practice to protect human rights in Slovakia.

19. His first question concerned freedom of expression (question 10 of document CCPR/C/60/Q/SLO/4) and, more particularly, the Slovak Council for Radio and Television Broadcasting, which, according to paragraph 76 of the report, has so far "preserved its independence". It emerged from reports from other sources that the situation was perhaps not as good as one might think: there was alleged to be interference by the public authorities in television broadcasts, and journalists whose reports were not favourable to the Government were censored or even dismissed. In that connection, could the delegation enumerate the political parties represented in the above-mentioned Council, whose members were appointed by Parliament? Did they all belong to the main party in power or did some of them form part of the opposition? What measures existed to prevent State television from being manipulated by the authorities and to guarantee the equitable presentation of all opinions, including those of the opposition? His second question concerned the restrictions which had allegedly been imposed by the Government on the autonomous status of persons of Hungarian origin and Roma, which seemed to be at variance with article 27 of the Covenant. He would be grateful if the delegation could clarify matters.

20. Mr. TÜRK drew attention to the importance of the normative stage in the establishment of the human rights protection system and noted that the report submitted by Slovakia showed that the establishment of the system had been largely completed. However, the normative framework was insufficient; mention must also be made of the application of norms and institutions intended to protect human rights. In that connection, the two areas of particular interest to him were the protection of minorities and the right to take part in the conduct of public affairs.

21. In connection with minorities, he wished to raise the question of the dual system of education, with its monolingual schools and bilingual schools. He would like to know whether there was a debate on the advantages and disadvantages of the two systems and on the preferences expressed by the majority population and by minorities. Was there an organization which expressed the views of the minorities on those questions, an organization which simply played an advisory role or an organization empowered to take decisions, as was the case in other countries where minorities existed? The bilingual school system was not always favoured by minorities in Europe today, as they tended to prefer the monolingual system. The report did not show whether that question was being discussed in Slovakia. In addition, there was an important indicator of the actual situation of the schools intended for minorities and of the minority groups themselves, and also of the coexistence between the majority and minority populations, namely, the number of children attending minority schools. Had that number risen or fallen over the past five years? Could a comparison be made between the rate for school attendance by minority groups in Slovakia today and the rate at the time when Slovakia had formed part of Czechoslovakia?

22. Secondly, on the question of the right to take part in the conduct of public affairs, it was well known that an important referendum had been held in Slovakia at the end of May and that it had had to be annulled because two unrelated questions had been put to the population. In a memorandum published after that annulment, the Slovak Government acknowledged that the referendum had evinced shortcomings in the current legal system and the need to adopt measures to avert any ambiguous interpretation of legal provisions. The Government further stated that it was dealing seriously with the questions raised by the referendum. He would like to know what were the shortcomings in question and what measures had been proposed to rectify them. The referendum was in fact a direct means of expression of the population as a whole and was of particular importance in the so-called "countries in transition".

23. Mr. Bhagwati took the Chair.

24. Lord COLVILLE said he wished to ask just one question about minorities. No mention was made in the Slovak report of the appointment, in 1995, of a special representative for persons in need of special assistance, notably members of minority groups such as the Roma. He would like to know what mandate had been conferred on such a representative, what his duties were, what funds were at his disposal and what powers had been entrusted to him. Could he take measures to rectify certain situations brought to his attention? Could he transmit certain files with his recommendations or bring those cases before the courts? Since the office had existed for two years now, it would

be interesting to know what the incumbent had been able to do, since that would give some idea of what was happening in practice in Slovakia now that the normative process had been completed.

25. Mr. PRADO VALLEJO reminded the Committee that one of the purposes of the obligation of periodic reporting to the Committee was to enable States to publicize the progress they had achieved and the difficulties they had encountered in ensuring that the rights and guarantees set out in the Covenant were a reality for all their citizens. The report of Slovakia gave the impression that compliance with the obligations arising from the Covenant was causing no difficulty, but a closer look revealed that the situation was quite different.

26. First, reports from various sources, notably the Council of Europe, spoke of regular ill-treatment and torture by the police in the course of questioning. Those were said to be common practices, which obviously constituted a violation of article 7 of the Covenant. The obligation of the State party in such a situation was to conduct an inquiry into complaints relating to such practices, in order to identify the guilty parties and compensate the victims. In 1996, there had been 315 complaints of that type; he would like to know what action had been taken and what results achieved.

27. The second problem concerned discrimination against women, and in particular women married to foreigners; such women did not have a right of permanent residence in Slovakia even if their spouse was legally present in the country. If that was true, that constituted a violation of article 3 of the Covenant and even, indirectly, of article 23, which protected the family. Would measures be taken to ensure that the provisions in question were brought into line with the Covenant?

28. And thirdly, there were many reports of rules and practices which could be described as xenophobic, since they impeded the integration of refugees and asylum-seekers, within Slovak society. For example, any person seeking asylum who arrived in Slovakia could be detained for over 30 days even if he had committed no offence, simply in order to enable the authorities to conduct an inquiry into his case. Such detention was manifestly arbitrary since it was unjustified. There again, it was essential that the Committee should be informed of measures taken by the Slovak Government to give full effect to the rights and guarantees set out in the Covenant.

29. Mr. SCHEININ said he wished to take up three questions which had already been raised by other members. First, he shared the concern already expressed about racism and anti-Semitism, and considered that the Government and political forces must commit themselves to action to combat racism by publicly condemning all acts and manifestations of racially-inspired violence. However, it would seem that certain political leaders wishing to enhance their popularity, instead of condemning racial hatred, were making humiliating statements, particularly against the Roma, which could only heighten inter-ethnic tension. He would like to know whether it was the policy of the Slovak Government to clearly affirm that political leaders and representatives of the State had a duty to publicly condemn racial violence.

30. The second point concerned the treatment of minorities and, more particularly, the right to use minority languages in dealings with the administration and public authorities, in the light of the Official Language Act of 1995, which seemed to contain contradictory provisions. Article 1 contained a clause stating that the Act did not regulate the use of languages by the national minorities and ethnic groups; article 7, on the other hand, stipulated that the official language was to be used in contacts with the administration and that the use of the minority languages was subject to special regulations. However, no special regulations existed to date. There would, therefore, appear to be a lacunae in legal provisions on that point. In addition, the 1995 Act, which had entered into force in 1996, established penalties in the event of its violation. He would like to know how the Act had been interpreted with regard to the use of their own language by members of minorities in dealings and formalities vis-à-vis the administration.

31. Thirdly, with regard to the treatment of detainees, the State party's report and the delegation's replies to the questions raised in the list of issues (CCPR/C/60/Q/SLO/4) related only to arrest and detention in the context of criminal prosecution. However, article 9 of the Covenant was broader in scope, and he would like to know how it was implemented in Slovakia in connection with the arrest and detention of foreigners by the police and detention as a disciplinary measure in the army.

32. Mr. ANDO associated himself with other members of the Committee in welcoming the delegation of Slovakia. He had read the initial report with interest and, like others, regretted that it did not contain sufficient information about the actual situation in the country.

33. Since the Slovak delegation had itself acknowledged that members of national minorities were few and far between in higher education, which could hinder their chances of finding a job, he asked whether the Government was contemplating particular measures to remedy that situation.

34. Some members of the Committee had asked about possible government intervention in the activities of the media. He asked whether efforts were being made to enable the general public to have access to information that would enable it to take decisions in the political sphere and all other spheres of social activity. Given Slovakia's geographical situation, a large number of foreign radio and television stations could probably be received; it would be useful to know the actual situation, and in particular whether the majority of Slovaks had access to foreign media.

35. Lastly, on a quite different matter, he was concerned about the rights of defence in judicial matters, having noted from paragraph 49 of the report that the accused must have a defence counsel as from the pre-trial stage "if the respective criminal case is punishable by a maximum sentence of more than five years of imprisonment". However, since criminal proceedings were involved, all suspects and defendants must be treated in the same way. Perhaps there were not enough lawyers in the country; in any event, he would like to know the legal justification for that restriction.

36. The CHAIRMAN proposed that the meeting should be suspended to enable the Slovak delegation to prepare its replies to the numerous questions which had been asked.

The meeting was suspended at 4.30 p.m. and resumed at 4.50 p.m.

37. Mrs. Chanet resumed the Chair.

38. Mrs. KRASNOHORSKA (Slovakia) thanked the members of the Committee for the interest they had shown in her country's report and assured them that all their observations had been duly noted. Her delegation would endeavour to reply to as many questions as possible and had grouped them by subject.

39. Mr. JEZOVICA (Slovakia), answering the question concerning the possibility of a modification of the competence of the Constitutional Court, said that, as far as he knew, there were no plans for such action. In order to do so, in fact, Parliament would have to amend the Constitution by adopting a constitutional law by a three-fifths majority. It could therefore be seen that the power to modify the competence of the Constitutional Court did not lie with the Government.

40. One member of the Committee had asked whether the legality of the election of members of the Democratic Union party to the National Council had been or might be challenged. The answer was clearly that legally elected Members of Parliament retained their status, which there was no question of modifying.

41. Mr. GREXA (Slovakia), taking up the question of the referendum of May 1997 concerning Slovakia's entry into NATO, said it was true that the referendum had raised complex legal problems and that its annulment by the Referendum Commission had created a difficult situation. The Constitutional Court was currently examining the question whether the Ministry of the Interior had acted legally, which at least proved the effectiveness of the Slovak supervisory institutions. The Government had undertaken to study the consequences of the annulment of the referendum, in order to prevent a recurrence of the situation. It would therefore examine the legislation governing referendum procedures and possible amendments would probably be debated in Parliament. For the time being, therefore, there was no specific measure to report, but the intention to settle the question by parliamentary means had been asserted.

42. Mr. PROCHACKA (Slovakia) said he had noted the Committee's interest in the situation of minorities and would in the first place deal with the question of education, the essential means of ensuring the full participation of members of minorities in civil life. The preservation of the identity of the Hungarian minority was guaranteed above all by the existence of a monolingual school system for "Hungarians". During the school year 1966/67, 77 per cent of children of Hungarian origin had been enrolled in the 286 kindergartens intended for such children; 82 per cent of "Hungarian" children enrolled in primary schools had attended 264 "Hungarian" primary schools; and 80 per cent of "Hungarian" secondary pupils had attended 11 secondary schools; and 63 per cent of "Hungarian" students taking vocational courses had attended 5 secondary technical schools and 3 paramedical schools.

There were also special schools for physically or mentally disabled children of Hungarian origin. The figures for 1994/95 showed that the rate of attendance at "Hungarian" schools had remained unchanged.

43. As to "Hungarian" pupils' knowledge of the Slovak language, it was true that the spread of education in the mother tongue of the minority meant that "Hungarian" pupils did not know Slovak sufficiently well to follow the Slovak school programme. That fact, together with insufficient interest in university studies, meant that the "Hungarians" enrolled in or graduating from university were less numerous than not only Slovaks but also the members of other national minorities. It was therefore more difficult for "Hungarians" to find a skilled job, and that situation was creating barriers which isolated the Hungarian minority from the rest of Slovak society. In order to remedy the situation, the Ministry of Education had taken measures to improve the teaching of Slovak to minorities and specialists had been asked to propose innovative methods. The Ministry had also inaugurated a bilingual education system in which certain subjects (e.g. social sciences and natural sciences) were taught in Slovak in "Hungarian" schools; children whose parents so wished attended the relevant classes. "Hungarian" children now had the possibility of choosing between education in a Slovak school given entirely in Slovak, education given solely in Hungarian and bilingual education. For the school year 1995/96, the bilingual system had functioned in 30 kindergartens, 1 primary school and 3 secondary schools.

44. As to the right to information, it should be noted that the Radio Act and the Television Act guaranteed the promotion of minority cultures by means of express provisions. That legislation thus provided that radio and television should reserve broadcasting time for national minorities. Specifically, Slovak radio reserved 35 broadcasting hours a week for programmes in Hungarian and television had a weekly 30-minute news magazine programme in Hungarian, the last week of each month being reserved for broadcasts for the Ruthenians and the Ukrainians. Private radio stations also broadcast numerous programmes in Hungarian.

45. On the question of the right to use one's own language, he acknowledged that the repeal of the Official Language Act had created a kind of legal vacuum. However, the right, for minorities, to speak their own language and use it in official communications was guaranteed by the Constitution, and it was exercised in practice, even in the absence of an express legal provision. In any event, there were plans to fill that legal vacuum; it was only a question of time.

46. Mr. JEZOVICA (Slovakia), replying to a question about the case of asylum-seekers who had reportedly been held in police custody for 40 days, said that he had no knowledge of that case. It was very probably a baseless rumour since asylum-seekers in Slovakia were not placed in detention. The only people who could be placed in detention were those who had been refused refugee status, and only on certain conditions (if the person concerned could not be expelled because of prosecution proceedings against him or because he was awaiting a travel document).

47. Replying to the questions concerning Slovak nationality and family reunification for foreigners, he said the law provided that a foreigner

married to a Slovak woman was entitled to a permanent residence permit, which could also be granted on humanitarian grounds in other cases. As to the acquisition of nationality, it should be borne in mind that every citizen of the Slovak region of the former Czechoslovakia had automatically become a citizen of the new Slovak State. Generally speaking, any national of the former Czechoslovakia could acquire Slovak nationality by simply making a declaration that he wished to do so. Those provisions were aimed at limiting the adverse effects which could not be avoided when one State broke up and another State was born from its ashes.

48. As to the question of the treatment of detainees and, in particular, the case of persons held in police custody who had reportedly been handcuffed to a radiator, he said that such treatment was obviously inhuman and constituted a flagrant breach of the law. The Police Act specified the conditions in which police officers could handcuff a suspect (if he had disobeyed an order, if he had caused property damage or if it was thought that he might try to escape). In addition, an information campaign aimed at giving the police guidance on action to be taken in such circumstances was currently under way.

49. Mrs. LAMPEROVA (Slovakia), replying to a question concerning the Prevention of Crime Bill, said that prevention was better than punishment. Thus, the Slovak legislature, in conjunction with the Crime Prevention Commission set up by the Government, had been working on that bill for several years. In Slovakia, there had recently been an increase in previously unknown offences, such as car theft, organized crime and money laundering. The bill was thus constantly having to be updated and did not fully reflect the actual situation. It had been submitted to the Legislative Council of the Government. Since she did not know its exact content, she was unable to give further details; she nevertheless assured the Committee that the Slovak authorities would make a point of communicating the text of the law as soon as it had been enacted, together with any other information the Committee might wish to receive.

50. A question had been asked about the meaning of what she had called the "hidden crime" whose victims were women. Such crime could be said to be hidden in two respects: firstly, because a woman who had been raped might not wish to report the rape for reasons of conscience, family or religious reasons, etc.; and secondly, there were a number of lacunae in legislation on the matter. For example, a rape victim was required to repeat the account of the attack many times - before the persons conducting the inquiry, the examining magistrate, etc., which constituted an ordeal and a situation that should be remedied through legislation. One of the commissions responsible for the codification of criminal law was dealing with the question of rape victims, and she hoped that its work would be fruitful.

51. On the question of requests by detainees, the following procedure was followed: the request was addressed to the governor of the prison concerned, but could be communicated to him by any staff member. The request was first examined by the governor, before being forwarded to the prison board, which was composed of the procurator responsible for the supervision of prisons, a magistrate and other senior prison officials and met twice a year.

52. Mr. GREXA (Slovakia) considered that the oral questions which had been asked about the mandatory defence of accused persons stemmed from a misunderstanding, since the right to be assisted by counsel was guaranteed to

every person charged with an offence or placed in detention. The law provided for a number of cases in which the defence of the accused was mandatory, and in that connection he drew attention to what was stated in paragraph 49 of the report (CCPR/C/81/Add.9). If a person charged with a minor offence and allowed to remain free did not choose a defence counsel, he was not assigned one automatically. Generally speaking, the provisions on that question in no way jeopardized the right of the accused to be assisted by a defence counsel.

53. One member of the Committee had asked whether, if the accused did not wish to be defended by a lawyer, the State was automatically required to appoint one for him. That question was currently under discussion in Slovakia, and his delegation would be happy to hear the Committee's opinion, which would be duly taken into account.

54. The CHAIRMAN said she understood that a defence counsel was appointed automatically when the minimum penalty for the offence was five years' imprisonment. But at what point did the defence counsel intervene in the pre-trial proceedings, namely between arrest and placing in detention? In France, for example, the lawyer intervened after 20 hours of police custody, and a bill enabling him to intervene immediately after the arrest had been submitted. What was the situation in Slovakia?

55. Mrs. LAMPEROVA (Slovakia) said that, in accordance with the law, any person under arrest could contact a lawyer or a member of his family as soon as he had been informed of the charge against him.

56. Mr. YALDEN thanked the Slovak delegation for the details it had provided on the question of minorities, but noted that it had given no reply concerning the Official Language Bill and its effects on the minorities' right to use their language in official communications. The delegation had implied that that bill would be enacted shortly, but that was contradicted by information originating from NGOs. In addition, a representative of the Ministry of Culture had apparently stated that there were no plans to enact new legislation in that area. What was the current situation with regard to the language rights of minorities? And what legislative measures were envisaged?

57. Mr. BHAGWATI, reverting to the question of the defence of the accused, said he would like to know whether, if a suspect could not afford to employ a defence counsel, the State appointed one immediately after the arrest or only during the subsequent stages.

58. Mrs. MEDINA QUIROGA observed that a number of her questions had not yet been answered, in particular the questions concerning defamation of a police officer or other official, academic freedom and measures which might be taken to improve the status of women in the areas of education and employment.

59. Mrs. KRASNOHORSKA (Slovakia) assured the Committee that her delegation would endeavour to reply as precisely and fully as possible, during the next meeting devoted to consideration of the initial report, to all the outstanding questions.

The meeting rose at 5.55 p.m.

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Sixtieth session

SUMMARY RECORD OF THE 1591st MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 16 July 1997, at 10 a.m.

Chairman: Mrs. CHANET

later: Mrs. MEDINA QUIROGA

later: Mrs. CHANET

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STATEMENT BY THE OFFICER-IN-CHARGE, HIGH COMMISSIONER/CENTRE FOR HUMAN RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Initial report of Slovakia (continued)

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.97-17337 (E)

The meeting was called to order at 10.10 a.m.

STATEMENT BY THE OFFICER-IN-CHARGE, HIGH COMMISSIONER/CENTRE FOR HUMAN RIGHTS

1. Mr. ZACKLIN (Officer-in-Charge, High Commissioner/Centre for Human Rights), welcoming members of the Committee to Geneva, noted that both the Chairman and Vice-Chairman of the Committee were women. The important role played by women in the defence of human rights had been acknowledged by the Secretary-General in appointing Mrs. Robinson, President of Ireland, to the post of High Commissioner for Human Rights; and he was sure that that appointment would represent a milestone in the history of international human rights law. The experience gained by the Committee since its first session more than 20 years earlier would no doubt be of the greatest value to the new High Commissioner: recent developments on the international scene had made it essential to strengthen mechanisms for monitoring obligations contracted under human rights treaties, and under the two Covenants in particular.

2. The kind of protection afforded by such monitoring was, by its very nature, more legal than political, and was the result of dialogue between independent bodies such as the Committee and States parties concerned to make progress in that area. It was also systematic, in that it dealt with implementation of all human rights in all countries of the world. The Committee's action had in many cases succeeded better than any other procedure in making progress in ensuring the enjoyment of human rights and improving specific human rights situations. It was for that reason that its deliberations, and more specifically its concluding observations and recommendations, would be an undisputed reference-point for the High Commissioner, and that implementation of those observations and recommendations would be one of her principal objectives.

3. Outlining developments in the work of other human rights treaty bodies since the Committee's previous session, he said that the Committee against Torture had considered, inter alia, the special report it had asked Israel to submit concerning the decision taken by the Supreme Court to authorize the use of moderate and reasonable physical and psychological pressure during interrogations of certain suspects. While the Committee had recognized the terrible dilemma faced by Israel in dealing with the scourge of terrorism, it had pointed out that a State party to the Convention against Torture could not invoke exceptional circumstances as a justification of methods prohibited under that Convention. The Committee had also recommended, inter alia, that the methods used by the Israeli security forces should be discontinued immediately, and had requested the State party to respond to its recommendations before 1 September 1997. It should be noted that it was the first time such reports had been requested of a State party, in pursuance of a procedure initiated by the Human Rights Committee five years earlier.

4. A growing number of persons awaiting trial were now submitting communications under article 22 of the Convention against Torture, and thus the Committee's body of jurisprudence in that regard was growing ever larger. He would encourage members to take account of those developments in their work in relation to the Optional Protocol, in particular when questions concerning article 7 of the Covenant came to be discussed.

5. The Committee on Economic, Social and Cultural Rights had taken note of the acceptance by the Dominican Republic of its proposal that two of its members should visit the country in connection with the implementation of article 11, paragraph 1, of the Covenant relating to the right to housing. That mission was to take place in September 1997. In addition, the Committee had submitted a number of recommendations to the Economic and Social Council for approval, including a recommendation that an extraordinary session should be held in 1998.

6. The Committee on the Rights of the Child had noted with interest the progress made in establishing the programme of action intended to strengthen support for the Committee. It had also decided to devote one day of its session, 6 October 1997, to a general discussion on the subject of disabled children.

7. In the course of the coming months the Chairmen of the treaty bodies were to meet in Geneva to identify and evaluate the measures which still needed to be taken in order to improve coordination between the various mechanisms for monitoring implementation of treaties. They would no doubt take account of the conclusions of the seminars held in Cambridge, Potsdam and Toronto, to which a number of members of the Committee had contributed.

8. In conclusion, he congratulated the Committee on the high quality of its work, and expressed the hope that its sixtieth session would be a success.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of Slovakia (continued) (CCPR/C/81/Add.9)

9. At the invitation of the Chairman, the members of the delegation of Slovakia took places at the Committee table.

10. The CHAIRMAN invited the Slovakian delegation to respond to questions raised by members the previous day in connection with part I of the list of issues (CCPR/C/60/Q/SLO/4).

11. Mr. JEZOVICA (Slovakia) said several questions raised had concerned measures to combat discrimination against women. The Government had set up a coordination committee for questions concerning women, which included representatives of governmental and non-governmental institutions, churches, self-governing bodies and trade unions. Its main tasks were to coordinate policies, to make proposals to the Government, and to draw up a national action plan for improving the situation of women. The Government had also proposed that a gender centre should be opened in Bratislava under United Nations auspices, and that proposal had met with a favourable response. The centre was to be an independent body which would be able to listen to a wide range of views on gender issues and work to enhance the situation of women throughout the country.

12. Mrs. Evatt and Mrs. Medina Quiroga had asked what mechanisms existed to protect the rights of women in the workplace. In the case of a labour dispute the matter would be decided by the ordinary courts, but where rights protected

under the Constitution were involved a complaint could be made to the Constitutional Court. If that Court found that the rights concerned had been violated, the complainant would be entitled to compensation, which would be decided by the normal judicial process. However, one of the problems in making such complaints was that the discrimination had to be proved. So far no applications had been lodged with the Constitutional Court on that issue. On the question of how women victims of crime were protected, he said that the police normally set up special teams of women investigators to deal with such crimes, so as to minimize the psychological trauma suffered by the victims.

13. Mr. Bhagwati had asked whether there was any independent commission in Slovakia to decide on human rights questions. Although no such commission existed, a national institution, the Slovak National Centre for Human Rights, had been set up to promote human rights.

14. In reply to the question from Mr. Buergenthal as to the number of Romas without citizenship in Slovakia, he said that no statistics were available. It might be of interest to the Committee to learn, however, that after the Czechoslovak Federal Republic had ceased to exist, a number of Roma had stayed on in the Czech Republic and had applied unsuccessfully for citizenship. Should a Roma in similar circumstances apply for Slovak citizenship, the Minister of the Interior would be flexible and would not insist that the normal requirements should be met. In 1994, Slovak citizenship had been granted to 19,450 persons, in 1995 to 1,300 persons and in 1996 to 500 persons. Of all the applications made only one had been rejected.

15. In response to Mr. Ando's question whether foreign-language broadcasts were permitted in Slovakia, he said that no restrictions applied, except that films intended for children of under 12 years of age must be dubbed. In the satellite era, television programmes in all languages were freely accessible.

16. Mrs. KRASNOHORSKA (Slovakia) responding to the question raised by Mrs. Medina Quiroga, said there was no open discrimination against women in the culture of Slovakia, as was apparent from the composition of its delegation to the Committee. Under the Slovak education system, gender in no way predetermined the choice of profession: thus, in 1994, out of a total of 1,072 judges 560, or 52 per cent, had been women, and out of 562 procurators 233, or 41.5 per cent, had been women.

17. Mr. PROCHACKA (Slovakia) said a number of questions had concerned the protection of persons belonging to national minorities. Resolution 310 of 30 April 1996 provided for measures to protect the Roma against discrimination and violence. In that area, the Government worked in cooperation with (NGOs) such as the Office for the Legal Protection of Ethnic Minorities, whose role was to monitor violations of the rights of the Roma and give them legal protection. The Roma enjoyed the same access to procedures for lodging complaints as other citizens.

18. Mr. Yalden had asked for figures on the proportion of persons belonging to minorities employed in public administration: the Ministry of the Interior had estimated that in 1991 some 9.5 per cent of all employees in district administrations were Hungarians. However, as he had already stated,

statistics on employees in public administration and in other sectors were not disaggregated on the basis of ethnic, religious or linguistic characteristics since Slovakia would consider that to be discriminatory.

19. Replying to a further question from Mr. Yalden, he said that certificates issued by schools attended by pupils from national minorities were exclusively in the Slovak language because it was required by law that that language be used for all official documents. Certain Members of Parliament of Hungarian nationality had filed a complaint against the Ministry of Education on that issue in the Constitutional Court, but no decision had yet been reached.

20. On the question of liaison between police and the Roma minority in areas where the latter were concentrated, he said that under Act No. 564/91 special police assistants had been appointed, with responsibility for cooperating with the Roma in resolving negative social phenomena. As to bilingual education, he said that a number of seminars had recently been organized by the Ministry of Education to discuss the merits of monolingual as against bilingual teaching. In addition, a Council of Europe seminar on bilingual education was to be held in Slovakia later that year, and representatives of national minorities were to participate. In answer to a further question, he said that children who spoke the majority language did not learn minority languages.

21. Lord Colville had asked what were the functions of government representatives in relation to solving the problems of persons in need of special assistance. Their main tasks were to coordinate the activities of individual ministries, to organize meetings of concerned bodies and institutions, and to prrepare conclusions and recommendations. Those recommendations covered, for instance, the allocation of State funds to solve the social and housing problems of those in need of special assistance, and plans to solve problems affecting the Roma as a result of current socio-economic conditions.

22. In response to a question from Mr. Scheinin, he said that the Act on the State Language of the Slovak Republic, adopted in 1995, was intended to define the status of the Slovak language in public life and to create a solid legal framework for its use, with a view to ensuring the smooth functioning of both central and local administrations. Penalties for infringement of that Act could be imposed only on legal persons, and must be preceded by a warning, but as far as he was aware no such penalty had yet been imposed. In conclusion, he pointed out that there were in fact not one but nine national minorities in Slovakia.

23. Mr. GREXA (Slovakia), in reply to a question from Mrs. Evatt, said that monitoring of information services was required by law and carried out by bodies appointed by Parliament. If an individual considered that his rights had been violated by such monitoring, he was entitled to lodge a complaint with any branch of the public administration. The right of detainees to medical assistance in case of need was guaranteed by law at every stage of detention. Concerning the case of the young man killed by skinheads in 1995, he said that on 12 February 1997 the court had sentenced the minor

primarily responsible to seven and a half years' imprisonment and two others to 8 months' and 27 months' imprisonment respectively; 13 others had been given suspended sentences. The prosecutor had appealed, and the case was to be reconsidered by the Supreme Court.

24. Reference had been made by Mr. Bhagwati to a United States State Department document asserting that people in Slovakia were complaining of an atmosphere of intimidation. It was very difficult to respond to such an assertion, since in every country there were persons who considered that they were being intimidated by the authorities. The case of an ex-policeman who had been killed when his car had exploded had unfortunately not yet been solved. That, too, was the kind of incident, which occasionally occurred in other countries.

25. Replying to Mr. Scheinin, he said that the rights of accused persons and detainees in the armed forces were well regulated: when a person was arrested by the military police, the Code of Criminal Procedure applied in the same way as in the civilian sector. When military personnel committed offences, military rules applied; those rules took account of the specific military factors but guaranteed equality of treatment.

26. In reply to a question concerning the stage at which an arrested person had the right to be assisted by defence counsel, he said that under the Code of Criminal Procedure the arrested person must be informed immediately of the reasons for his arrest and had the right immediately to choose his defence counsel. In other words, the defence counsel could act from the moment of the arrest or as soon as he had been contacted thereafter.

27. Replying to Mrs. Medina Quiroga, he said that the Penal Code did not define "a particularly dangerous crime", but stated in article 3 (4) that the danger posed by a criminal act was determined mainly by the value of the object protected, the manner in which the offence had been committed, the consequences of the offence, the circumstances in which it had been committed and the individual who had committed it, especially his motivation.

28. In reply to another of her questions, he said that the legal order in the Slovak Republic made no distinction between those injured by defamation. There was a general offence of defamation which affected everyone, and there were specific provisions that protected State agents. Replying to a further question, he explained that article 70 of the Code of Criminal Procedure stated that both the relatives and the lawyer of an arrested person must be informed of his arrest without delay.

29. Mr. JEZOVICA (Slovakia), replying to a question from Mr. Kretzmer, said that all nine members of the Slovak Republic's Council for Radio and Television Broadcasting were elected by the National Council but none was a member of any particular party or movement. Six members were nominated by the governing coalition and three by the opposition parties.

30. Mr. BUERGENTHAL said he had had no reply to his questions concerning any educational measures the Government might have taken to promote ethnic tolerance through school curricula and the State-controlled media. In

particular, had any measures been taken to ensure that school textbooks did not contain ethnic stereotypes, especially anti-Roma and anti-Semitic statements?

31. Mrs. KRASNOHORSKA (Slovakia) said there was a document which provided detailed information on the subject; she would send it to Committee members upon her return to Bratislava.

32. Mr. KRETZMER said he had asked about the termination of the autonomous status of ethnic Hungarian and Roma theatre groups.

33. Mrs. KRASNOHORSKA (Slovakia) said that that information too would be supplied by the delegation shortly.

34. Mr. ANDO said questions had been asked regarding the mandatory provision of defence counsel for arrested persons and detainees, specifically with respect to who paid for the defence counsel at the investigation stage, and whether the State paid only at the trial stage.

35. Mr. GREXA (Slovakia) said that mandatory defence was provided for under the law from the beginning of an investigation; it was provided without charge to the detainee and paid for by the State.

36. Mr. PRADO VALLEJO said he had asked the general question whether any project or programme existed to review domestic enactments in order to bring them into conformity with the norms and principles laid down in the Covenant.

37. Mrs. MEDINA QUIROGA said her question, and that of other members, regarding the third sentence of paragraph 49 of the report (CCPR/C/81/Add.9) had been why legal aid was conditional if everyone had the right to it.

38. Mr. JEZOVICA (Slovakia) said that the legal system of the Slovak Republic was subject to change and would follow developments in international law. If the Committee could point to any specific issues requiring immediate attention, his delegation would be pleased to communicate them to the National Council.

39. Mr. GREXA (Slovakia), replying to the point raised by Mrs. Medina Quiroga, said that from the outset it should be stressed that the right of everyone who was prosecuted, accused or placed in detention to have a defence counsel was guaranteed; it was absolutely impossible to be deprived of that right. The problem possibly lay with the institution of mandatory defence. What happened in the vast majority of cases was that the right to have a defence counsel, was exercised in such a way that if the accused person or detainee did not choose or did not wish to choose a defence counsel, the State was obliged to appoint one ex officio. However, when someone who had committed a minor offence was being prosecuted for it while remaining free and had taken no action to choose a defence counsel, the State was not obliged to appoint one.

40. Mrs. Medina Quiroga took the Chair.

41. Mr. BHAGWATI sought to clarify the question by asking whether it was in all kinds of cases that legal aid must be provided by the State or only in certain kinds of cases. If so, in which cases?

42. Mr. GREXA (Slovakia) said that once court proceedings had begun, a defence counsel was mandatory in all cases; it was impossible for someone appearing before a court not to have a lawyer. The question of mandatory defence concerned only the pre-trial stage; once a case had come before a court defence was always assured.

43. The CHAIRMAN invited the Slovak delegation to answer the questions contained in part II of the list of issues (CCPR/C/60/Q/SLO/4).

44. Mr. JEZOVICA (Slovakia), replying to question 13, said article 11 of his country's Constitution stated that international agreements concerning human rights which had been ratified by Slovakia and promulgated had precedence over domestic law on condition that they provided more extensive rights and freedoms. The Constitution also reflected that precedence in its section relating to the competence of the Constitutional Court. The Covenant therefore had precedence where the domestic legal order limited the rights it guaranteed. When the Constitution had been drawn up in 1992, due regard had been taken of the Covenant's provisions but its wording probably reflected more closely the wording of the European Convention for the Protection of Human Rights and Fundamental Freedoms. He referred to two cases which had been dealt with by the Constitutional Court and in which the Covenant had been directly invoked by the party and by the Court. The General Comments of the Committee had been useful in helping the Constitutional Court to define the terms used in the Covenant and to draft its decisions in accordance with its provisions.

45. Replying to question 14, he said that before its departure for Geneva his delegation had informed the Slovak media regarding its initial report, the Covenant and the Optional Protocols. The Covenant was published in the Collection of Laws, which contained all documents with legal effect, including international agreements to which Slovakia was a party; the Collection of Laws was a public document which was readily accessible and on the shelves of most public libraries. Specific measures regarding the dissemination of information on the rights recognized in the Covenant were listed in a book which would be sent to the Committee; it was published in two volumes by the Ministry of Culture and contained basic human rights instruments, including the Covenant. It was widely distributed in the Slovak and Hungarian languages. The National Council of the Slovak Republic had also initiated publication of the texts of human rights documents accompanied by scholarly commentaries and opinions. An important role in the dissemination of information on the rights guaranteed by the Covenant was played by the National Centre for Human Rights, which organized training courses, workshops and seminars on the subject, and various NGOs.

46. Mr. GREXA (Slovakia), replying to question 15, said that the authorities in his country were convinced that the mediation mechanism was an important tool in the protection of human rights and fundamental freedoms, and that the institution of an Ombudsman was such a tool. The authorities were aware of a general trend in Europe and elsewhere towards establishing public protection

of human rights, and planned to create an Ombudsman's Office. The decision to do so had formed part of a series of legislative and institutional measures to improve control within the State administration, and the National Council had intended that the Ombudsman would be an independent authority monitoring compliance by the State administration with human rights and freedoms and settling petitions and complaints from citizens. The draft law had been prepared in accordance with that decision, but it had gradually become clear that other concepts should also be considered. The early experience gained by the Office of the Agent of the Slovak Republic at the European Commission for Human Rights and the European Court of Human Rights had been that complaints were usually about delays in proceedings. There were therefore arguments for giving an Ombudsman authority not only for the sphere of State administration but also for the judicial sphere, and the Slovak authorities were considering what framework would best suit Slovak requirements and conditions.

47. Mr. JEZOVICA (Slovakia), referring to question 16, said that article 23 of the Constitution guaranteed freedom of movement, including the right of anyone lawfully on Slovak territory to leave and return to it, and deemed any forced departure or extradition illegal. The enhancement of legal provisions to extend such rights had been under way since 1989. Act No. 219/91, relating to travel documentation, stated that citizens could travel abroad, with valid documentation, the actual requirements depending on reciprocal arrangements. In some circumstances, for example, the identity document need not be a passport. Conditions for refusing passport applications were governed by that Act; any refusal must be based on reasons such as financial default or criminal proceedings. Any person over 15 years of age could apply for a passport; applications for younger persons were submitted by a legal representative. Travel documents confiscated for any reason were returned to the issuing office, which had 15 days in which to decide whether there was a right of appeal; such decisions could be subject to review by the courts. There were no visa requirements in respect of most European countries, as a result of agreements concluded. For nationals subject to such requirements, requests could be made at a Slovak diplomatic mission or consulate. Visas could be revoked in cases of criminal acts, illegal entry, lack of financial means of support, violation of narcotics regulations and risk to State security, public order, health or the rights of others; but no one could be deported to a country where he or she would be in danger on grounds such as racial origin, political opinions or religious belief, or where a crime committed by that person was punishable by death. Decisions to deport were taken by the police, but could be appealed against to the Ministry of the Interior; it was also possible to appeal to the Supreme Court for review of a ministerial decision.

48. In reply to question 17, he said that Act No. 283/95 set forth the conditions governing application for refugee status. Applications could be written or oral, and submitted at a border post or police station within 24 hours of arrival; they were sent to the Ministry of the Interior for consideration. Applicants were accommodated in refugee camps and provided with necessities, including food and a stipend, and classes in the Slovak language if desired. According to data currently available, 425 applications had been received during 1997. Of those, 21 had been accepted and 48 rejected; proceedings had been terminated in respect of the others. Over

the past four years, according to Ministry of the Interior statistics, 219 applications had been dismissed; of those, 186 had been the subject of appeal to the Ministry, and 133 of them had been the subject of further appeal to the Supreme Court for review of a ministerial decision.

49. Mrs. Chanet resumed the Chair.

50. Mrs. LAMPEROVA (Slovakia), referring to question 18, said that the status of the judiciary was governed by provisions of the Constitution and other enactments. Judges were elected for a four-year period, and could be re-elected for the same period, by Parliament, on the recommendation of the Government. The President and Vice-President of the Supreme Court were likewise appointed from among judges of that Court; their term of office was five years, with a maximum of two successive terms. Judges could resign and could also be impeached by Parliament for reasons such as intentional crime or acts incompatible with their office. Parliament could also revoke a judge's mandate on health grounds, for at least one year and if the judge was aged 65 or more. Such actions were subject to a prior ruling by the appropriate disciplinary body. The President and Vice-President of the Supreme Court could be dismissed by the Minister of Justice. The State guaranteed the independence of the judiciary, inter alia by ensuring non-interference in their work and adequate remuneration. An amendment to the Courts and Judges Act, which had entered into force in 1995, was an example of moves to enhance the democratic nature of the courts, based on experience of European practice. A further example related to the status of the Councils of Judges, currently non-autonomous advisory bodies, which was being modified.

51. Question 19 related to legislation and practice in respect of the right to protection of privacy. In that regard, the powers of the police were prescribed by Act No. 171/93 and in the Code of Criminal Procedure. Permitted action by the police was generally of two types: normal everyday acts such as checking vehicles or preventing entry into hazardous locations; and apprehension because of suspected commission of a crime or intention to commit a crime. Paragraph 88 of the Code of Criminal Procedure governed the conditions under which wire tapping could be carried out. Decisions to that effect must be in writing, justified and sanctioned by an authority, for example, the Procurator in the case of pre-trial proceedings or the presiding judge of a panel in respect of proceedings already heard. Wire tapping of conversations between lawyers and clients was prohibited.

52. Mr. GREXA (Slovakia), referring to question 20, said that the conditions for registration of religious societies were clearly defined by law. Act No. 308/91 dealt with freedom of religion and the status of churches and ecclesiastical associations; under the Act an association could request registration if it had at least 20,000 adherents. However, a number of societies having a considerably smaller membership, but State-recognized before the Act had come into force, were registered.

53. Requests must provide administrative information such as the society's name, headquarters address and officials, as well as a statement acknowledging respect for national laws and tolerance of other societies and non-believers. Documentation was required on the society's status and management, including details of persons authorized to receive stipends and how they were appointed

and dismissed. Registration was carried out by the Ministry of Culture, which also looked into aspects such as conformity with the law, morality, tolerance and respect for the rights of others. Registration by the Ministry was an administrative act, governed by the administrative code in force. The Supreme Court could be requested to review any refusal of registration. Currently, 15 churches and religious associations were registered.

54. Registered societies were entitled to certain benefits, such as State assistance in funding and access to the media, schools, hospitals and prisons; the Slovak authorities did not view as discriminatory the fact that non-registered societies enjoyed no such benefits.

55. With reference to the last sentence of question 20, Act No. 282/1993 Coll. on the mitigation of property injustices to churches and religious societies had been welcomed by a speaker at the Tenth Assembly of the World Jewish Congress in January 1996, who had said that, although its implementation had been slow, the Act was a model in some respects. It stipulated that churches could request, in writing, the restitution of confiscated land and other property within 80 days of the date of application, in relation to confiscations between 1945 and 1990 and, in respect of Jewish property, between 1939 and 1990. Cases of failure to restitute could be brought before a court within 15 months. The Act provided, however, that the property was to be restored in the state it had been in at the time the Act had entered into force, there being no provision for financial compensation. It also provided that restitution of land could be refused for reasons such as irrevocable conversion, e.g. to a cemetery, or on ecological grounds. It also covered special cases relating to premises currently occupied by schools, or which had become sites of historic interest. The time-limit for requests had been 31 December 1994. Clearly, such a complex subject was not without problems, and the Act could not rectify all injustices, including those suffered by countless individuals as well as societies; nevertheless, it had helped to alleviate some.

56. Mr. JEZOVICA (Slovakia), replying to question 21 on the list of issues concerning conscientious objection, said that under article 25 (2) of the Constitution no one could be forced to perform military service if that ran counter to his conscience or religious belief. Act No. 207 of 1995 now regulated the conditions of exercise of that right, and notably the performance of civilian service in the public interest that was imposed as an alternative. Persons who were by profession responsible for weapons or connected with such responsibility were prevented by law from engaging in civilian service. Conscientious objection must be declared in a substantiated statement to be submitted to the military authorities within 30 days of receipt of a conscription order or - in the case of reservists liable to call-up for war games - by 31 January of the calendar year but no sooner than two years after performing active military service. As determined by the Constitutional Court in a case which he described in some detail, the time-limits must be respected, and in addition, to be legally valid, statements must include various personal data as well as substantiation of the incompatibility between military service and the applicant's conscience or religious belief. Official acknowledgement of an objector's statement and notification of the concomitant duty to perform civilian service were communicated in a certificate issued by the military authorities, together

with information concerning the rights and obligations associated with civilian service. The military administrative office also issued brochures to potential employers setting out the conditions governing such service.

57. Refusal to approve alternative civilian service could be appealed against to the courts. Revocation of an earlier statement of objection to military service was also possible, subject to certain conditions. The rights and benefits of persons engaged in civilian service - notably in terms of wages, food, accommodation and clothing - were the same as those of conscripts performing military service. The working hours of an objector could not exceed the legal limits for the type of activity performed.

58. In 1996, a total of 6,144 persons had been performing civilian service; another 7,810 had been awaiting such service. Altogether in the same year, 1,736 persons had made statements of objection to military service.

59. Replying to question 22 on the impact of the new law requiring registration of NGOs and imposing financial requirements on their establishment, he observed that while the freedom of association as such was not considered a subject requiring legal regulation, a great deal of consideration had been given since 1991 to the need to introduce certain restrictions, notably with regard to foundations, many of which had property interests. The law adopted in 1996 remained the subject of considerable debate. For example, the requirement that a foundation must have a capital of 100,000 Slovak koruny, to be raised within a six-month period following registration, had been contested, but had also been shown to compare quite favourably with similar requirements in Germany, Denmark and elsewhere.

60. As to the equally controversial requirement of registration by the administrative section of the Ministry of the Interior, he pointed out that the drafters of the law had carefully examined the situation in other countries before endorsing that provision, which in any case carried with it a safeguard in the form of the possibility of judicial review of any ministerial decision on regulation. Foundations registered before the enactment of the 1996 law were required to reapply by 1 September 1997, by which time the impact of the new provisions could be more properly assessed. His delegation would gladly communicate the findings to the Committee for further discussion if its members so desired.

61. Mrs. KRASNOHORSKA (Slovakia), responding to the request in question 23 for more information on measures against sexual exploitation of children and the situation of children becoming stateless, said that Slovakia was deeply committed to the implementation of the Declaration of the Rights of the Child, and had supported the European initiative on children's rights at the most recent session of the Commission on Human Rights. But while there had undoubtedly been progress in the protection of children in Slovakia, it must be admitted that they continued to suffer abuse and ill-treatment, including sexual exploitation involving pornography and prostitution. Official figures indicated that between 1993 and 1996, four cases (three involving boys and one a girl) had been recorded. Obviously, the legal protection accorded by the Penal Code and the Family Act was insufficient. Supplementary measures had therefore been recently introduced, including the creation of special centres to deal with juveniles at all levels of the police structure, greater

coordination of the activities of State and local authorities and relevant institutions, and international cooperation. In addition, sexual exploitation was the subject of study and research, and many preventive actions had been launched.

62. Act No. 40/1993 on nationality made it virtually impossible for children in Slovakia to become stateless. Slovak nationality was automatically accorded to a child with at least one parent of that nationality, as well as to Slovakian-born children of stateless parents or of foreign parents whose nationality they did not acquire.

63. The CHAIRMAN invited a final round of comments from members of the Committee.

64. Mr. POCAR said that he had one or two outstanding concerns. The first was to establish the exact status of the Covenant within the constitutional framework of Slovakia. From paragraphs 7 and 8 of the report (CCPR/C/81/Add.9), he understood that when a law was declared unconstitutional, it would become ineffective after six months if the competent authorities, i.e. the Executive or Parliament, had not brought its provisions into conformity with the constitutional requirements. Was he right in further concluding that modification of the law in question could result in its remaining on the statute book? If that was indeed the case, then it seemed to him that the only way of verifying that the modifications intended in the ruling of the Constitutional Court had been made would be to bring the matter once again before the Court, which could prove a very lengthy process. His own preference would certainly be for the automatic and straightforward deletion of unconstitutional provisions, so as to avoid tinkering that failed properly to address the original concern, which must be to remove or revise legislation of the past that was incompatible with a new and democratic Constitution. Further information on both the theoretical and practical aspects of that matter would be welcome.

65. A further source of puzzlement was the impression he had gained from a reading of articles 132 and 125 of the Constitution that international instruments had, generally speaking, a standing lower than domestic law. Thus, while regulations listed under article 125 (c), namely "generally binding decrees issued by territorial self-administration bodies", must, if incompatible, be brought into harmony with international instruments to which Slovakia was a party, the same specific provision was not mentioned in relation to regulations listed under article 125 (b), which included "decrees issued by the Government and generally binding legal regulations issued by ministries and other central bodies of State administration". That discrepancy was, in turn, at variance with the provisions of article 11, according to which "international treaties on human rights and basic liberties ... ratified by the Slovak Republic and promulgated in a manner determined by law [take] precedence over its own laws".

66. Turning to the issue of religious freedom, he said he found it difficult to see how a law that required the registration of churches could be compatible with that freedom, especially when the criterion of numbers was added. Registered churches obviously enjoyed a variety of privileges. Did that not imply discrimination against churches which failed to meet the requirements for registration? He further asked whether the financing of registered churches took the form of subsidies or grants for specific

activities (such as education, health services and so on), what percentage of the population were not members of any of the 15 registered churches, and whether the restitution of church property was accorded only to those that were registered or to all religious institutions in Slovakia.

67. On the question of conscientious objection, he noted the confirmation of the constitutionality of establishing time-limits for statements of objection, but asked whether future conscripts were actually informed of that provision. Further noting that such statements must include, among other things, a demonstration of the incompatibility between military service and the signatory's religious belief, he asked whether a demonstration along the same lines, but on grounds of conscience by a non-believer, would be favourably considered. What, indeed, were the grounds for refusing statements of objection? Lastly, what justifications were there for differences in the length of military and civilian service, which, unless there were good reasons, could be seen as punitive.

68. Mrs. GAITAN DE POMBO welcomed the informative report and its presentation of activities related to the installation of a new democratic order, and the identification of problems encountered in that connection. It was useful for the Committee to learn about the status of the Covenant and of its implementation in all parts of society in all countries.

69. She welcomed the confirmation of Slovakia's abandonment of the death penalty and the withdrawal of its reservation concerning article 20 of the European Convention against Torture. She further noted the abandonment of any statute of limitation concerning prosecution for war crimes; she would welcome further information on the strengthening of legislation in that respect as well as comments on the elimination of the notion of impunity.

70. Mr. KLEIN associated himself with Mr. Pocar's remarks concerning the status of the Covenant in the constitutional and legal framework of Slovakia. Referring to article 11 of the Constitution, he inquired how it was to be determined that international treaties on human rights and basic liberties actually secured "a greater extent of constitutional rights and liberties" than national laws. Would such a determination be made globally, or on a case-by-case basis?

71. Concerning the independence of the judiciary, he concurred with the view that junior judges elected or appointed upon leaving law school would obviously lack experience, and should be at first engaged on a probationary basis. In that connection, it would be useful if the judiciary itself were accorded a greater say in the matter of extending or renewing appointments for limited periods or indefinitely after the probationary stage, a matter which ought not to be left to the Executive and Parliament.

72. Mr. KRETZMER said that he shared the previous speaker's concern about various aspects of the temporary appointment of judges, and would also welcome information concerning their remuneration. He understood that the Slovak Association of Judges had put forward some suggestions with regard to legislation on matters concerning the judiciary, and inquired about the status of those suggestions.

The meeting rose at 1.05 p.m.